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Keiko Tanaka Kubovcik  
Kubovcik & Kubovcik  
The Farragut Building  
Suite 710  
900 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20006

In re Application of	:	
RANTALA, et al.	:	
Application No.: 10/552,737	:	DECISION ON PETITION
PCT No.: PCT/FI04/00224	:	
Int. Filing Date: 13 April 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 11 April 2003	:	
Atty. Docket No.: LAIN-077	:	
For: LOW-K DIELECTRIC MATERIAL	:	

This decision is in response to applicant's "SUBMISSION OF STATEMENT UNDER 37 C.F.R. §1.497 (d)(1)" filed 26 September 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a request under 37 CFR 1.497(d). As authorized, the \$130.00 petition fee will be charged to deposit account 11-1833.

**BACKGROUND**

On 13 April 2004 , applicant filed international application PCT/FI04/00224, which claimed priority of an earlier application filed 11 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 October 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005.

On 11 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an information disclosure statement.

On 28 July 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2006, applicant responded with the present petition accompanied by an executed declaration and payment of the appropriate surcharge.

## DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) the fee set forth in 37 CFR 1.17(h); and
- (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and
- (4) any new oath or declaration required by paragraph (f) of this section.

Applicant has satisfied items (1), (2) and (4). Specifically, the inventors being added have signed a statement indicating that their omission from the international application was without deceptive intent. Applicant has authorized the charging of the petition fee to deposit account number 11-1183 and provided a compliant declaration of the actual inventors.

Regarding item (3), applicant has not included a statement from the assignee consenting to the addition of the inventors named in the petition.

In light of the above, it is not possible to grant applicant's petition at this time.

## CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459